

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

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23-CR-255 (HG)

UNITED STATES OF AMERICA,

Plaintiff,

United States Courthouse  
Brooklyn, New York

-against-

June 27, 2023  
11:00 a.m.

JIAN CHEN,

Defendant.

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TRANSCRIPT OF CRIMINAL CAUSE FOR STATUS CONFERENCE  
BEFORE THE HONORABLE HECTOR GONZALEZ  
UNITED STATES DISTRICT JUDGE

APPEARANCES

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*LEEANN N. MUSOLF, RPR, Official Court Reporter*

PROCEEDINGS

(In open court.)

THE COURTROOM DEPUTY: This is Criminal Cause for a status conference, Docket Number 23-CR-255. United States of America versus Jian Chen.

Parties, please state your appearances for the record, starting with the government.

MR. ESTES: Good morning, Your Honor.

Andrew Estes for the government.

THE COURT: Good morning, Mr. Estes.

MR. VARGHESE: Varghese and Associates by Vinoo Varghese for Ms. Chen.

Good morning, Your Honor.

THE COURT: Hi, Mr. Varghese.

THE COURTROOM DEPUTY: Interpreter, can you stand and state your name for the record.

THE INTERPRETER: Yes. Way Moy, W-A-Y, last name M-O-Y.

THE COURTROOM DEPUTY: Raise your right hand.

(The interpreter was sworn.)

THE INTERPRETER: Yes, I do.

THE COURT: All right. Good morning, everyone.

This, technically, I guess is our first appearance on this case, although this case has a lengthier history here, but, Mr. Varghese, you're relatively new to the matter, so I think we just, since the clock is running on anew, we'll just

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1 start anew, but how much of the discovery in this case has  
2 been turned over from the earlier version of the case?

3 MR. VARGHESE: So, the earlier version of the case,  
4 since that was a plea to an Information, the government had  
5 not provided the Rule 16 discovery.

6 THE COURT: Okay.

7 MR. VARGHESE: It does have that material and is  
8 prepared to hand it over today, its initial production that's  
9 over 70,000 pages of documents. We've discussed the proposed  
10 protective order that counsel has reviewed with his client  
11 with the assistance of the interpreter in court today, so  
12 we'll submit that to the Court for its review. And once  
13 that's entered because of, in addition to the financial  
14 records, there's protected patient health information because  
15 of the Medicare and Medicaid claims, as well as patient files.

16 Once we provide that material to defense counsel, we  
17 hope to be able to reengage in substantive negotiations to see  
18 if this is a case that can be resolved short of trial now that  
19 defense has the opportunity review those materials.

20 THE COURT: Mr. Estes, remind me, I know you went  
21 over this when we appeared at the plea withdrawal, but the  
22 defendant's alleged role is what?

23 MR. ESTES: So, the defendant was a co-owner of the  
24 two pharmacies, as well as an employee of a nearby clinic.  
25 So, in general, her role was referring or sending the patients

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1 from the clinic to the pharmacies in exchange for kickbacks in  
2 the form of payments of pharmacy profits at her direction.

3 THE COURT: And is she a licensed pharmacist?

4 MR. ESTES: No, she is not.

5 THE COURT: But she owned the pharmacy?

6 MR. ESTES: Correct. She was an owner, in fact.

7 And to be clear, she was not listed as an owner with the Board  
8 of Pharmacy or similar paperwork.

9 THE COURT: Okay.

10 Mr. Varghese, I'm not going to ask you to refute the  
11 allegations, they are just allegations, but anything to add  
12 procedurally in terms of next steps?

13 MR. VARGHESE: No, Your Honor. I was just -- just  
14 to be clear, I have been on the case for over a year,  
15 Mr. Estes and I had -- we were the ones to bring to Mr. Estes'  
16 attention the --

17 THE COURT: The withdrawal?

18 MR. VARGHESE: -- with the prior counsel and I filed  
19 and stuff. So I was before you at the last court date.

20 THE COURT: No, I recall that. I meant new to the  
21 case and not having received any discovery?

22 MR. VARGHESE: That's correct.

23 THE COURT: So you're fresh in that regard. All  
24 right.

25 So how much time do you think makes sense given in

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1 order for there to be any reasonable plea negotiations?

2 You're going to need some time to review the discovery.

3 MR. VARGHESE: Yes.

4 THE COURT: So what do you think, Mr. Varghese?

5 I'll look to you first.

6 MR. VARGHESE: So, Mr. Estes and I've discussed  
7 this, along with your courtroom deputy, and we believe we can  
8 put on for a status conference on September 13th, and we would  
9 waive consent to the waiver of Speedy Trial time until then.

10 THE COURT: And you've had an opportunity to discuss  
11 the Speedy Trial Act with your client?

12 MR. VARGHESE: Yes.

13 THE COURT: And she understands her rights?

14 MR. VARGHESE: Yes. When we were here last week for  
15 the arraignment on the indictment, I actually had the  
16 interpreter last week read her the Speedy Trial waiver and  
17 explain that we would be consenting until this week and then  
18 once we -- or here we would be consenting again until we --  
19 for us to receive and inspect the discovery.

20 THE COURT: Okay.

21 And there have been no issues with respect  
22 supervision, right?

23 MR. VARGHESE: Correct.

24 THE COURT: All right.

25 MR. VARGHESE: And just for the record, she, during

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1 the whole time out, she was here, she made it, you know, all  
2 the court appearances, didn't go anywhere. And then Mr. Estes  
3 contacted us the night before and she promptly appeared for  
4 the indictment.

5 THE COURT: Okay. All right. Very good.

6 All right. So I'm going to adjourn the matter until  
7 September 13th at 11:00 a.m. The period from today through  
8 September 13th of this year is excluded in computing time  
9 under the Speedy Trial Act. I find that the ends of justice  
10 served by the adjournment and this continuance outweigh the  
11 best interests of the defendant and the public in a speedy  
12 trial, because the failure to grant the continuance will  
13 deprive counsel for the defendant the reasonable time  
14 necessary to review what appears to be voluminous discovery,  
15 and also because the failure to grant a continuance would  
16 deprive counsel for the defense and counsel for the government  
17 the reasonable time necessary to engage in potential plea  
18 negotiations or plea negotiations.

19 So for those reasons, I'm going to exclude time  
20 through September 13th in the interest of justice.

21 Any other issues we can resolve today, Mr. Estes?

22 MR. ESTES: No, Your Honor. And if the Court  
23 prefers, we can file the proposed protective order on the  
24 docket as soon as I return to the office.

25 THE COURT: That's fine, yes.

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1 Anything else, Mr. Varghese?

2 MR. VARGHESE: No.

3 THE COURT: All right. Very good. And I'll see you  
4 folks in September. Have a good summer.

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7 (Matter adjourned.)

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